

### **REMARKS**

This Amendment is being filed in response to the Office Action dated September 10, 2007. Claims 1-16 are currently pending and stand rejected in the application. Of these, claims 1, 5, 9 and 13 are independent. By this Amendment, claims 1, 5, 9 and 13 are amended and claims 17-18 are added. Support for the new claims can be found at least in paragraphs [0049] and [0066] – [0078] of the specification as originally filed. No new matter is added. Applicants respectfully request reconsideration in light of the comments set forth herein, and respectfully maintain that this application is in condition for allowance.

#### **Rejections Under 35 U.S.C. §103**

Claims 1, 3-5, 7-9, 11-13, 15 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,243,083 to Burns et al. (“Burns”) in view of U.S. Patent No. 5,787,402 to Potter et al. (“Potter”). Dependent claims 2, 6, 10 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Burns and Potter further in view of U.S. Patent No. 7,171,386 to Raykhman (“Raykhman”). Applicants respectfully submit that Burns, Potter and Raykhman, either taken alone or in combination, fail to teach or suggest the application as claimed in independent claims 1, 5, 9, 13 and 17. In the interest of brevity, the rejection of the dependent claims will not be addressed in detail herein, and Applicants respectfully submit that at least because the independent claims are patentable over Burns, Potter and Raykhman, dependent claims depending therefrom are also patentable.

Independent claims 1, 5, 9 and 13 have been amended herein to recite spread trading in “two or more markets” and to affirmatively recite specific orders in each of first and second markets. For example, claim 1 recites initiating “a first order in a first market...” and initiating “a second order in a second market” in connection with “trading of a spread.” The

claimed systems and methods have particular benefits when the spread covers two markets, including “reduc[ing] the risk of adverse price movements” and “offset[ing]” foreign exchange exposite resulting from the first order in the first market.” Burns, Potter and Raykhman, in contrast, are directed to a single market, and do not suggest trading a spread of one or more securities in multiple markets as claimed. Accordingly, even if all three references were combined, the combination fails to teach or suggest the invention as claimed.

Furthermore, at least because Burns, Potter and Raykhman, are all directed toward a single market, it would not have been obvious for one of ordinary skill in the art to combine Burns, Potter and Raykhman to provide for trades in two or more markets as claimed. Rather, the references teach away from such a combination.

Additionally, the Office Action fails to provide any evidence or suggestion of the purported combination of Burns and Potter. As the Board of Patent Appeals and Interference states, there must be some evidence or suggestion of the claimed combination. Ex Parte Katoh et al., Appeal 20071460 (May 29, 2007). Additionally, in Ex Parte Owlett, the Board overturned the rejection of the claims stating that “the Examiner has not provided any evidence that it was conventional in the art to make the asserted combination or modification. Ex Parte Owlett, Appeal 20070644 (June 20, 2007). The Board went further to state that the Examiner must “provide a sufficient reason or explicit analysis of why the disclosures of the references should be combined.” Ex Parte Erkey et al., Appeal 20071375 (May 11, 2007). The Office Action failed to provide any evidence or suggestion of the combination, or that it was conventional in the art to make the asserted combination.

### **Rule Checks**


Furthermore, new claims 17 and 18 recite a system including one or more rule checks coded into the processors. The rule checks determine at least some of the conditions that must be met in order to initiate the first order. Burns, Potter and Raykhman fail to teach or suggest such rule checks. Whereas the Office Action refers to column 7, lines 41-52 of Burns to disclose rule checks (in connection with claims 4, 8, 12 and 16), Applicants respectfully point out that Burns is directed to calculating a spread to illustrate where to trade based on the ratio. Burns does not teach or suggest criteria that must be met in order to proceed (i.e., to determine whether to trade), in contrast to the rule checks as claimed. As recited in claim 17, the rule checks are for “determining whether to initiate a first order” and are not merely a guide or illustration. Furthermore, rule checks are in addition to determining whether the spread is “in-line.” In this regard, claim 17 continues by reciting: initiating the first order “if ... the rule checks are satisfied.” Exemplary rules checks are described at paragraphs [0068]-[0076] of the application as filed. Burns, Potter and Raykhman fail to teach or suggest such rule checks.

Dependent claim 18 recites specific examples of rule checks which are neither taught nor suggested in the cited references. Dependent claims 4, 8, 12 and 16 also recite the use of rule checks and are similarly distinguishable.

Accordingly, Applicants respectfully submit that Burns, Potter and Raykhman, either taken alone or in combination, fail to render obvious the invention claimed. Applicants thus respectfully request withdrawal of the rejections and prompt allowance of the application. In the interest of brevity, the merits of the rejections of the dependent claims will not be addressed further herein.

No fee, other than the three-month extension of time submitted herewith, is deemed necessary in connection with the filing of this Amendment. However, if any fee is required, the Examiner is hereby authorized to charge the amount of such fee to Deposit Account No. 19-4709.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ian G. DiBernardo", is written over a horizontal line.

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